

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VOL PARKER,

Petitioner,

v.

CASE NO. 12-15325

HONORABLE ARTHUR J. TARNOW

SHERRY BURT,

Respondent.

ORDER GRANTING PETITIONER'S MOTION
TO AMEND HIS HABEAS CORPUS PETITION (Dkt. #11),
DIRECTING THE CLERK TO RE-OPEN THIS CASE, AND
DIRECTING PETITIONER TO FILE AN AMENDED PETITION

On December 4, 2012, petitioner Vol Parker commenced this action by filing a *pro se* petition for the writ of habeas corpus under 28 U.S.C. § 2254. The habeas petition challenged Petitioner's first degree murder convictions on grounds that (1) the state trial court lost or destroyed his trial transcripts, (2) the State's appellate courts refused or failed to adjudicate his claims, and (3) he was entitled to the writ of habeas corpus as a matter of due process and equal protection of the law.

On the same day that Petitioner filed his habeas corpus petition, he filed a motion to stay his case while he returned to state court to exhaust state remedies for some new claims. On May 6, 2013, the Court granted Petitioner's motion, but ordered him to file a post-conviction motion in the state trial court within ninety days of the Court's order and, if he was unsuccessful in state court, to file an amended habeas corpus petition and a

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motion to re-open his federal case within ninety days of exhausting state remedies for his new claims. In the same order, the Court directed the Clerk of the Court to close this case for administrative purposes. Petitioner subsequently notified the Court that he submitted his motion for relief from judgment to prison officials for mailing to the state trial court on July 31, 2013.

Currently pending before the Court is Petitioner's motion to amend his habeas corpus petition. The motion and attached exhibits indicate that Petitioner's motion for relief from judgment was filed in the state trial court on August 20, 2013. On the following day, the state trial court denied Petitioner's motion because Petitioner raised issues that were previously decided against him and because he offered no basis for reconsideration, no newly discovered evidence, and no retroactive change in the law. The Michigan Court of Appeals denied Petitioner's subsequent appeal for lack of jurisdiction, *see People v. Parker*, No. 319131 (Mich. Ct. App. Jan. 15, 2014), and on September 29, 2014, the Michigan Supreme Court denied leave to appeal because Petitioner's motion for relief from judgment was prohibited by the Michigan Court Rules. *See People v. Parker*, 497 Mich. 867; 853 N.W.2d 365 (2014). On December 23, 2014, Petitioner signed and dated the pending motion to amend his habeas corpus petition.

Petitioner has substantially complied with the Court's previous order granting a stay and holding the habeas petition in abeyance. The Court therefore **GRANTS** the motion to amend the habeas petition (Dkt. #11) and **ORDERS** the Clerk of the Court to

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re-open this case. The Court orders Petitioner to file his amended habeas corpus petition within **thirty (30) days** of the date of this order. Failure to comply with this order may result in the dismissal of the habeas petition.

s/Arthur J. Tarnow
ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

Dated: March 13, 2015